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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,266	10/27/2003	Allen D. Polowinczak	1247 P 277	2799

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EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,266

Applicant(s)

POLOWINCZAK, ALLEN D.

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19,21-33 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19,21-33,40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 33, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelver (3889434).

Shelver (figures 3, 4) shows a muntin clip comprising a base (123) having a first surface, a connector (130) extending from the base, the first surface is located on a lip (121) extending from the base, the first surface is textured, the first surface comprising a plurality of protrusions (126), the first surface including an adhesive (131) applied thereto, the lip extends from the base in a direction generally opposite to the direction from which the connector extends from the base, the connector extends from the base from a second surface wherein the first surface is opposite the second surface, the connector comprising a leg (122, 124), the base having a texture surface (the surface including parts 124, and thus are textured), the base having means for frictionally engaging the separator, the means for frictionally engaging is located on a lip extending from the base, the means comprising a textured surface (26), the textured surface comprising a plurality of protrusions, the means for frictionally engaging comprising an adhesive substance (31), the lip having a textured surface comprising a plurality of protrusions (1260 substantially covering the entire surface, the connector (130) extending perpendicularly from the second side of the base.

3. Claims 11-19, 21-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Leeser (3131440).

Leeser (figures 1, 2, 4) shows a sash window comprising a first pane of glass (13 above) and a second pane of glass (13 below) spaced from the first pane of glass by a pane separator (17), the first pane being generally parallel and in confronting relation to the second pane, a muntin grid located between the first pane and the second pane including a muntin bar (22) and a muntin clip (21) located between the first pane and the second pane, and having a base having a first surface frictionally engaging the separator and a leg (23) extending from the base and adapted to engage the muntin bar, the first surface is located on a lip(25) extending from the base, the first surface is textured (per the protrusions of 30 and its adjacent bulking part), the first surface comprising a plurality of protrusions (see textured surface), the lip extends from the base in a direction generally opposite the direction from which the leg extends from the base, the leg extends from the base from a second surface wherein the first surface is opposite from the second surface, a master frame (6), a sash window (14) mounted in the master frame and having a pair of window panes spaced by a pane separator (17), a plurality of interconnecting muntin bars (12, 11, figure 1), at least one muntin bar (22) having a muntin bar end.

Per claim 32, Leeser shows a clip comprising a base (41) having a first surface, a connector (25) extending from the base and attached to the muntin bar end, the connector comprising a leg (30).

Response to Arguments

4. Applicant's arguments filed 1/17/06 have been fully considered but they are not persuasive.

5. Applicant states that the reference Shelver does not show “ a connector extending from the base and configured to engage the muntin bar end”, examiner respectfully points out that the

reference shows a connector extending from the base. In response to applicant's argument that the structure of Shelver cannot function to engage the muntin bar end, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Furthermore, the muntin grid and the muntin bar end are not claimed structural limitations. The arguments are thus moot.

6. With respect Shelver not showing a “muntin clip”, examiner respectfully points out that the reference shows “ muntin clip” as claimed. The arguments are thus moot.

7. with respect to claim 10, the reference Shelver shows a leg as claimed. the structure inherently also is capable of functioning as claimed. The arguments are thus moot.

8. with respect to claim 33, Shelver as pointed out above, shows the connector extending perpendicularly from the second side of the base as claimed. The reasoning as to the intended use is not repeated here as it is already set forth above.

9. with respect to Leeser, the reference shows all the limitations as claimed, including the first pane of glass and a second pane of glass spaced from the first pane of glass by a pane separator, the panes being parallel and in confronting relation to the second pane. The arguments are thus moot.

10. With respect to Leeser not showing “a muntin clip located between the panes” examiner respectfully points out that the reference shows the limitations as claimed. The reasoning as to the intended use is not repeated here as it is already set forth above.

11. The other rejections per Leeser are also proper per the limitations as claimed.

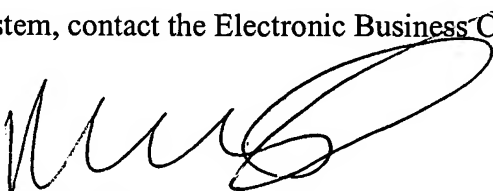
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different muntin grid structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

4/3/06